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Department of the Treasury
Washington, DC 20224

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Legend

Distributing =

Controlled =

Sub 1 =

Sub 2 =

Sub 3 =

FSub 1 =

FSub 2 =

FSub 3 =

FSub 4 =

FSub 5 =

FSub 6 =

FSub 7 =

LLC 1 =

LLC 2 =

Business A =

Business B =

aa =

State A =

Country A =

Country B =

Country C =

Country D =

Country E =

z% =

y% =

Property =

Dear :

This letter responds to your August 9, 2013, request for rulings on certain federal income tax consequences of a proposed transaction described below (the “Proposed Transaction”). The information submitted in that request and in later correspondence is summarized below.

The rulings contained in this letter are based upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process. Moreover, this office has not reviewed any information pertaining to, and has made no determination regarding, whether any of the distributions described below: (i) satisfies the business purpose requirement of Treas. Reg. § 1.355-2(b); (ii) is used principally as a device for the distribution of the earnings and profits of any distributing corporation or any controlled corporation or both (see § 355(a)(1)(B) and § 1.355-2(d)); or (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in any distributing corporation or any controlled corporation (see § 355(e)(2)(A)(ii) and § 1.355-7).

Summary of Facts

Distributing is a State A corporation and is the common parent of an affiliated group of corporations that join in the filing of a consolidated federal income tax return (the “Distributing Group”). Distributing owns all of the stock of Sub 1, Sub 2, and Sub 3. Distributing also owns all of the interests in LLC 1, a State A limited liability company that is treated as a disregarded entity for federal income tax purposes. Further, Distributing owns all of the stock of FSub 1, a Country A corporation, FSub 7, a Country B corporation, and Controlled, a State A corporation formed to carry out the Proposed Transaction.

Sub 1 owns all of the stock of FSub 2, a Country B corporation. FSub 1 owns all of the stock of FSub 3, a Country A company that is treated as a disregarded entity for

federal income tax purposes. FSub 1 also owns all of the stock of FSub 5, a Country C corporation, and all of the stock of FSub 6, a Country D company that is treated as a disregarded entity for federal income tax purposes. FSub 3 owns $z\%$ of the stock of FSub 4, a Country E corporation; FSub 1 owns the remaining $y\%$ of FSub 4. Distributing also holds a note from FSub 1 (the "FSub 1 Note") in the amount of approximately \$aa.

The Distributing Group is engaged in two lines of business, Business A and Business B. Business A is conducted primarily through Distributing, LLC 1, FSub 4, FSub 5, and FSub 6. Business B is conducted primarily through Sub 1, Sub 2, and FSub 1. Financial data for Business A and Business B show each has had gross receipts and operating expenses representing the active conduct of a trade or business for each of the past five years.

Proposed Transaction

For what is represented to be valid business reasons, Distributing proposes to undertake the following transaction:

- (i) Distributing will form LLC 2, a State A limited liability company.
- (ii) Distributing will contribute all of the stock of Sub 1 and Sub 2, along with certain assets and liabilities that will be part of Business B, to Sub 3. In connection with the transfer, certain Business B employees currently employed by Distributing will become employed by Sub 3. Further, certain Business A employees currently employed by FSub 2 will become employed by FSub 7.
- (iii) FSub 3 will sell all of its stock in FSub 4 to Distributing for an interest in the FSub 1 Note.
- (iv) FSub 1 will sell FSub 5 and FSub 6 to Distributing in exchange for a reduction in the outstanding balance of the FSub 1 Note.
- (v) Distributing will assign a portion of the FSub 1 Note to LLC 2. Then, FSub 1 will sell all of its interests in FSub 4 to LLC 2 in exchange for a reduction in the outstanding balance of the portion of the FSub 1 Note assigned to LLC 2.
- (vi) FSub 1 will sell Property to Distributing in exchange for a reduction in the outstanding balance of the FSub 1 Note.
- (vii) Distributing will contribute all of the stock of FSub 1, all of the stock of Sub 3, the remaining amount of the FSub 1 Note, and any other assets and liabilities that will be part of Business B (to the extent not already contributed to Sub 3 in Step (ii) above) to Controlled (the "Contribution").

- (viii) Distributing will distribute all of the stock of Controlled to its shareholders, pro rata (the "Distribution").
- (ix) Distributing and Controlled will enter into certain agreements, including a Transition Services Agreement, a Tax Sharing Agreement, and reciprocal cross-licensing of intellectual property, necessary for the companies to achieve operational independence.

Representations

- (a) Any indebtedness owed by Controlled to Distributing after the Distribution will not constitute stock or securities.
- (b) No part of the consideration to be distributed by Distributing will be received by a shareholder of Distributing as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.
- (c) Distributing and Controlled will treat all members of their respective separate affiliated groups as defined in § 355(b)(3)(B) (the "Distributing SAG" and the "Controlled SAG", respectively) as one corporation in determining whether the requirements of § 355(b)(2)(A) regarding the active conduct of a trade or business are satisfied.
- (d) The five years of financial information submitted on behalf of Business A conducted by the Distributing SAG is representative of the present operations of such business, and there have been no substantial operational changes in such business since the date of the last financial statements submitted.
- (e) The Distributing SAG neither acquired Business A nor acquired control of an entity conducting Business A during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized in whole or in part, excluding in each case acquisitions that constitute expansions, as contemplated by § 1.355-3(b)(3)(ii), of Business A. Throughout the five-year period preceding the Distribution, the Distributing SAG will have been the principal owner of the goodwill, if any, and significant assets of Business A. Following the Distribution, the Distributing SAG will continue to be the principal owner of the goodwill, if any, and significant assets of Business A.
- (f) Following the Distribution, the Distributing SAG will continue the active conduct of Business A, independently and with its separate employees, other than certain transitional and administrative support services that may be provided under the Transition Services Agreement.

- (g) The five years of financial information submitted on behalf of Business B as conducted by the Distributing SAG, and as to be conducted by the Controlled SAG, is representative of the present operations of such business, and there have been no substantial operational changes in such business since the date of the last financial statements submitted.
- (h) The Distributing SAG neither acquired Business B nor acquired control of an entity conducting Business B during the five-year period ending on the date of the Distribution in a transaction in which gain or loss was recognized in whole or in part, excluding in each case acquisitions that constitute expansions, as contemplated by § 1.355-3(b)(3)(ii), of Business B. Throughout the five-year period preceding the Distribution, the Distributing SAG will have been the principal owner of the goodwill, if any, and significant assets of Business B. Following the Distribution, the Controlled SAG will be the principal owner of the goodwill, if any, and significant assets of Business B.
- (i) Following the Distribution, the Controlled SAG will continue the active conduct of Business B, independently and with its separate employees, other than certain transitional and administrative support services that may be provided under the Transition Services Agreement.
- (j) The Distribution will be carried out to (i) to facilitate a public offering of Controlled; (ii) to permit Controlled to more efficiently and economically access capital; and (iii) to improve management fit and focus, operational flexibility, corporate resource and capital allocations, and management and employee incentives for both Business A and Business B. The Distribution is motivated in whole or substantial part by these corporate business purposes.
- (k) The Distribution will not be used principally as a device for the distribution of earnings and profits of Distributing or Controlled or both.
- (l) Any liabilities assumed (within the meaning of § 357(d)) by Controlled in the Contribution were incurred in the ordinary course of business and are associated with the assets transferred to Controlled in the Contribution.
- (m) The adjusted basis of the assets transferred to Controlled in the Contribution will equal or exceed the liabilities (if any) assumed (as determined under § 357(d)) by Controlled. It is expected that Controlled will assume liabilities related to Business B in connection with the Contribution.
- (n) The fair market value of the assets transferred to Controlled in the Contribution will exceed the sum of: (i) the amount of any liabilities (if any) assumed (within the meaning of § 357(d)) by Controlled in connection with the exchange; (ii) the amount of any liabilities (if any) owed to Controlled by Distributing that are

discharged or extinguished in connection with the exchange; and (iii) the amount of any cash and the fair market value of any other property (other than stock and securities permitted to be received under § 361(a) without the recognition of gain) received by Distributing in connection with the exchange. The fair market value of the assets of Controlled will exceed the amount of its liabilities immediately after the Contribution.

- (o) No intercorporate debt will exist between Distributing (or any entity controlled directly or indirectly by Distributing) and Controlled (or any entity controlled directly or indirectly by Controlled) at the time of, or subsequent to, the Distribution other than accounts payable arising in the ordinary course of business.
- (p) Payments made in connection with all continuing transactions, if any, between Distributing and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length.
- (q) No two parties to the Distribution are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).
- (r) For purposes of § 355(d), immediately after the Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50% or more of the total combined voting power of all classes of Distributing stock entitled to vote, or 50% or more of the total value of shares of all classes of Distributing stock, that was acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distribution.
- (s) For purposes of § 355(d), immediately after the Distribution, no person (determined after applying § 355(d)(7)) will hold stock possessing 50% or more of the total combined voting power of all classes of Controlled stock entitled to vote, or 50% or more of the total value of shares of all classes of Controlled stock, that was either (i) acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distribution or (ii) attributable to distributions on Distributing stock or securities that were acquired by purchase (as defined in § 355(d)(5) and (8)) during the five-year period (determined after applying § 355(d)(6)) ending on the date of the Distribution.
- (t) The Distribution is not part of a plan or series of related transactions (within the meaning of § 1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50% or greater interest (within the meaning of § 355(d)(4)) in Distributing or Controlled (including any predecessor or successor of any such corporation).

- (u) Immediately after the Distribution, either (i) no person will hold a 50% or greater interest (within the meaning of § 355(g)(3)) in the stock of Distributing or Controlled who did not own such an interest before the transaction, or (ii) neither Distributing nor Controlled is or will be a disqualified investment corporation for purposes of § 355(g).
- (v) Immediately before the Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations (see § 1.1502-13 and § 1.1502-14 as in effect before the publication of T.D. 8597, 1995-2 C.B. 147, and as currently in effect; § 1.1502-13 as published by T.D. 8597). Any excess loss account Distributing may have in the Controlled stock (or a member may have in the stock of another member that is required to be taken into account by § 1.1502-19) will be included in income immediately before the Distribution to the extent required by regulations (see § 1.1502-19).
- (w) The distribution of Controlled stock to Distributing's shareholders in the Distribution is with respect to their ownership of Distributing stock.
- (x) Any money, property, or stock contributed by Distributing to Controlled in the Contribution will be exchanged solely for stock or securities in Controlled.
- (y) Distributing, Controlled and the Distributing shareholders each will pay its own or their own expenses, if any, incurred in connection with the Distribution, except that Distributing will pay certain corporate-level expenses that are solely and directly related (within the meaning of Rev. Rul. 73-54, 1973-1 C.B. 187) to the Distribution (such as legal, accounting and other advisory fees, and printing and mailing expenses incurred in connection with the Distribution).
- (z) The payment of cash in lieu of fractional shares of Controlled common stock is solely for the purpose of avoiding the expense and inconvenience of issuing fractional shares and does not represent separately bargained-for consideration. The fractional share interests of each Distributing shareholder of record will be aggregated and no Distributing shareholder will receive cash in an amount equal to or greater than the value of one full share of Controlled common stock.

Rulings

Based solely on the information submitted and the representations set forth above, and provided that (i) the distribution of Controlled stock to Distributing's shareholders in the Distribution is with respect to their ownership of Distributing stock, (ii) any money, property, or stock contributed by Distributing to Controlled in the Contribution is exchanged solely for stock or securities in Controlled, and (iii) any other

transfer of stock, money, or property between Distributing, Controlled, or any Distributing shareholder and any person related to Distributing, Controlled, or any Distributing shareholder is respected as a separate transaction, we rule as follows:

- (1) The Contribution together with the Distribution will constitute a “reorganization” within the meaning of § 368(a)(1)(D). Distributing and Controlled will each be “a party to a reorganization” within the meaning of § 368(b).
- (2) Distributing will recognize no gain or loss on the Contribution. (§§ 361(a) and 357(a)).
- (3) Controlled will recognize no gain or loss on the Contribution. (§ 1032(a)).
- (4) Controlled’s basis in each asset received from Distributing in the Contribution will be equal to the basis of that asset in Distributing’s hands immediately before the Contribution. (§ 362(b)).
- (5) Controlled’s holding period in each asset received from Distributing in the Contribution will include the period during which Distributing held that asset. (§ 1223(2)).
- (6) Distributing will recognize no gain or loss on the Distribution. (§ 361(c)(1)).
- (7) No gain or loss will be recognized by (and no amount will be included in the income of) the shareholders of Distributing upon receipt of the Controlled stock in the Distribution. (§ 355(a)(1)).
- (8) The basis of the Distributing stock and the Controlled stock in the hands of the shareholders of Distributing after the Distribution will be the same as the basis of the Distributing stock held by them, allocated between the Distributing stock and the Controlled stock in proportion to the fair market value of each in accordance with §§ 1.358-1(a) and 1.358-2(a)(2). (§§ 358(a) through (c)). If a Distributing shareholder who purchased or acquired shares of Distributing common stock on different dates or at different prices is not able to identify which particular share of Controlled stock (or portion thereof) is received with respect to a particular share of Distributing common stock, the shareholder may designate which share of Controlled stock is received with respect to a particular share of Distributing stock, provided that the terms of the designation are consistent with the terms of the Distribution. (§ 1.358-2(a)(2)(iv)).
- (9) The holding period of the Controlled stock received by the shareholders of Distributing will include the holding period of their Distributing stock with respect to which the Distribution was made, provided that such Distributing stock is held as a capital asset on the date of the Distribution. (§ 1223(1)).

- (10) Earnings and profits will be allocated between Distributing and Controlled in accordance with § 312(h) and §§ 1.312-10(a) and 1.1502-33.
- (11) Any Distributing shareholder who receives cash in lieu of fractional shares of Controlled stock will recognize gain or loss measured by the difference between the basis of the fractional share received and the amount of cash received. (§ 1001). Any gain or loss will be treated as a capital gain or loss, provided that such fractional share of Controlled stock would be held as a capital asset on the date of the Distribution. (§§ 1221 and 1222).

Caveats

No opinion is expressed about the federal income tax treatment of the Proposed Transaction under other provisions of the Code or regulations or the federal income tax treatment of any conditions existing at the time of, or effects resulting from, the Proposed Transaction that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding:

- (i) Whether any distribution satisfies the business purpose requirement of § 1.355-2(b);
- (ii) Whether any distribution is used principally as a device for the distribution of the earnings and profits of the distributing corporation or the controlled corporation or both (see § 355(a)(1)(B) and § 1.355-2(d)); or
- (iii) Whether any distribution and any acquisition or acquisitions are part of a plan (or series of related transactions) under § 355(e)(2)(A)(ii).

Procedural Statements

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Richard K. Passales
Senior Counsel, Branch 4
Office of Associate Chief Counsel (Corporate)